

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH,
LUCKNOW**

ORIGINAL APPLICATION NO. 41 OF 2007

ALLAHABAD THIS THE ^{07th} DAY OF FEBRUARY, 2008

HON'BLE MR. M. KANTHAIAH, MEMBER-J

HON'BLE MR. SHAILENDRA PANDEY, MEMBER-A

Parmatma Sharan Shukla, Aged about 50 years, S/o Late Sri R.K. Shukla, working as PGT (Geography) in Kendriya Vidyalaya Sangathan at AFS Memaura, Lucknow, R/o C-6, Teachers' colony AFS Memaura, Lucknow.

.....Applicant

(By Advocate Shri Nitin Mathur)

V E R S U S

1. Union of India through Secretary, Department of Education, Ministry of HRD, New Delhi.
2. Commissioner, Kendriya Vidyalaya Sangathan, HQ, New Delhi.
3. Joint Commissioner (Admn.), Kendriya Vidyalaya Sangathan, HQ, New Delhi.
4. Dy Commissioner (Personnel) Kendriya Vidyalaya Sangathan, HQ, New Delhi.
5. Sr. Administrative Officer (East) Kendriya Vidyalaya Sangathan, HQ, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
6. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Sector J, Aliganj, Lucknow.
7. Sri R.N. Misra, PGT (Chemistry), Kendriya Vidyalaya, RRC-Fatehgarh, District Farrukhabad.


.....Respondents

(By Advocate: Sri Surendran P.)

O R D E R

BY SHAILENDRA PANDEY, MEMBER-A


This O.A. has been filed against the order dated 10.8.2006 vide which the respondents have issued orders regarding promotion from the post of



PGTs to the post of Vice Principals in Kendriya Vidyalaya. In the said order, the name of the applicant does not figure i.e. he has not been recommended for promotion to the post of Vice Principal.

2. The applicant's grievance is that he is the senior most candidate out of the persons that was considered for the post of Vice Principal and has excellent teaching record from the day of his joining (he joined as PGT in K.V. at Guwahati on 1.11.1985). He has also mentioned that apart from being senior with an excellent record, he has also achieved the target of 100% pass result in Geography taught by him during 1996-97 and 1997-98 in AISSCE in Kendriya Vidyalaya, Chakeri-I, Kanpur and also 100% result in the Board Examination during the sessions 2001-02 and 2002-03. In addition to the above, he has also mentioned that he had worked as Incharge Principal from time to time and has taken part in extra curricular activities of the Vidyalaya and that he had never been communicated any adverse remarks, and on the contrary, had received 'Appreciation certificates' from time to time, which he has filed with the present O.A.

3. Being aggrieved by the order dated 10.8.2006, vide which he was not recommended for promotion as Vice Principal, the applicant had represented his case alongwith full facts, in detail, to the




respondents (Annexure-21 of the O.A.), but the respondents vide their order dated 21.12.2006 have informed the applicant that his candidature for promotion to the post of Vice Principal was turned down by the DPC as 'Unfit' and not meeting the prescribed Bench mark 'Good'. It is the applicant counsel's contention that this order (not recommending him for promotion to the post of Vice Principal) is unjust, illegal and improper as no adverse remarks had been communicated to him by the respondents at any time and denial of promotion on the basis of ACRs, which have not been communicated to him, is illegal.

4. In support of his contention, he has cited the Full Bench decision of the Earnakulam Bench of this Tribunal reported in ATJ(36) 2002 26 in re. Raju Vs. Chairman and Managing Director, BSNL, New Delhi and Ors. In which it was held that "Promotion-Adverse Remarks- Promotion based on seniority-cum-fitness - Non-communication of adverse remarks recorded by the DPC for the relevant period to the employee concerned - Denial of promotion not justified - Employee entitled to be reconsidered for promotion". The learned counsel for the applicant has also cited the decision reported in ATJ (39) 2003 556 in re. S.P. Punglia Vs. U.O.I. and Ors., in which it was held that "Promotion - Promotion to the post of TES Group 'B' - Promotion based on seniority-cum-fitness- Junior to applicant promoted

- Challenged - No adverse material against the applicant at the time of consideration of DPC - No departmental enquiry was contemplated against him - Supersession of applicant on the basis of his performance in ACRs not justified- issuance of chargesheet subsequently would not come in the way of his promotion - Direction given to consider him for promotion and pay cost of Rs.1000

Promotion - Annual Confidential Reports - Promotion based on seniority-cum-fitness - An employee cannot be superseded on the basis of 'Average ACR' "

4. The respondents' counsel has pointed out that all the judgments, referred to above, were in respect of cases of promotion which were decided on the basis of 'seniority-cum-fitness', whereas in the instant case the post of Vice Principal in Kendriya Vidyalaya is a selection post in which the decision has been taken on the basis of 'seniority-cum-merit' from amongst PGTs serving in Kendriya Vidyalayas. In this connection, he has invited our attention to para 11 of Schedule I of Appendix III of the Education Code for Kendriya Vidyalaya, which prescribes the Recruitment Rules for the post of Vice Principal - item 5 of that Rules lay down that the post of Vice Principal is a selection post and item 11 lays down that the post is to be filled on the basis of seniority-cum-merit from amongst PGTs serving in Kendriya Vidyalaya. He has also mentioned



that a duly constituted DPC for selection from the post of PGTs to the post of Vice Principals had met on 27.7.2006 and had duly considered the case of the applicant alongwith other eligible candidates, but could not recommend the applicant for promotion as he did not meet the prescribed Bench mark 'Good'. He has further mentioned that the applicant had looked after the work of Principal in the Vidyalaya for some period of time, but this was a temporary arrangement during which he performed only day-to-day routine work for few days.

5. We have heard both the counsels and have perused the pleadings on record and judicial citations mentioned hereinabove and are of the view that the respondents have duly constituted a DPC in accordance with the Recruitment Rules and that have come to their decision regarding the persons to be recommended for the post of Vice Principal after due consideration of all aspects of the matter and keeping in view the fact that the post of Vice Principal is a selection post, the action of the respondents cannot be held to be violative of any Rules or guidelines. More-over, it is well settled that no judicial intervention is warranted in DPC proceedings that are conducted in accordance with prescribed instructions and Rules. We, therefore, find no justification to interfere in the matter and as such the O.A. is dismissed. No costs.



MEMBER-A

GIRISH/-



MEMBER-J

07.02.2007